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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,898	06/05/2001	Iain Hogg	01-627	5142

7590 08/17/2004

McDonnell Boehnen Hulbert & Berghoff  
 32nd Floor  
 300 S. Wacker Drive  
 Chicago, IL 60606

EXAMINER

GOLD, AVI M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/873,898

Applicant(s)

HOGG ET AL.

Examiner

Avi Gold

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/28/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is responsive to the application filed June 5, 2001. Claims 1-29 are pending. Claims 1-29 represent method for monitoring a network as the network changes in size.

#### ***Claim Objections***

1. Claim 17 objected to because of the following informalities: It should be dependent on claim 16 not 17. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumano et al., U.S. Patent No. 6,502,132.

Kumano teaches the invention as claimed including a network monitoring system, monitoring device, and monitored device (see abstract).

Regarding claim 1, Kumano teaches a method of monitoring a network of devices comprising the step of defining at least two types of device, and monitoring the different types of device using different monitoring procedures (col. 7, lines 64-67, col. 8, lines 1-9, Kumano discloses network monitoring system monitoring devices connected to a network with each device having various statuses).

Regarding claim 2, Kumano teaches a method as claimed in claim 1 in which said different monitoring procedures comprise interrogating said devices at different intervals (col. 9, lines 20-28, Kumano discloses polling intervals).

Regarding claim 3, Kumano teaches a method as claimed in claim 1 in which said different monitoring procedures comprise interrogating said devices at different protocols (col. 12, lines 49-67, col. 13, lines 1-5, Kumano discloses different units for analyzing the devices).

Regarding claim 4, Kumano teaches a method as claimed in claim 1 in which said defined types of device comprise core devices and edge devices (col. 7, lines 64-67, col. 8, lines 1-9).

Regarding claim 5, Kumano teaches a method as claimed in claim 1 in which said defined types of device are defined in terms of the number of other devices a

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particular device is connected to (col. 7, lines 64-67, col. 8, lines 1-9, Kumano discloses a plurality of monitored devices connected to the network having various statuses).

Regarding claim 6, Kumano teaches a method of monitoring a network comprising the steps of determining the number of devices in the network to be monitored, and changing the monitoring procedure in accordance with the determined number (col. 15, lines 44-67, col. 16, lines 1-5, Kumano discloses a counter of the number of devices which can change the summary status which then changes the control command).

Regarding claim 7, Kumano teaches a method as claimed in claim 6 in which the monitoring procedure includes interrogating the devices in the network and the step of changing the monitoring procedure comprises changing the frequency of interrogation of devices as the determined number changes (col. 16, lines 8-18, Kumano discloses polling times changing).

Regarding claim 8, Kumano teaches a method as claimed in claim 6 in which the monitoring procedure includes interrogating the devices using a protocol and the step of changing the monitoring procedure comprises changing the protocol used to monitor devices as the determined number changes (col. 16, lines 8-18, Kumano discloses polling operation changes based on time and summary status).

Regarding claim 9, Kumano teaches a method as claimed in claim 6 including the step of providing one or more ranges of numbers, and determining which range the determined number falls into, and changing the monitoring procedure in accordance with the range of numbers in which the determined number falls (col. 15, lines 44-67, col. 16, lines 1-5).

Regarding claim 10, Kumano teaches a method as claimed in claim 6 including the step of dividing the devices into types and monitoring the different types of devices using different monitoring procedures (col. 7, lines 64-67, col. 8, lines 1-9).

Regarding claim 13, Kumano teaches a method as claimed in claim 6 in which the step of determining the number of devices is initiated when a monitored device is added or removed from the network (col. 15, lines 44-67, col. 16, lines 1-5).

Regarding claim 14, Kumano teaches a computer program, or a computer program on a computer readable medium loadable into a digital computer, or embodied in a carrier wave, said computer program operating in accordance with the method as claimed in claim 1 (col. 7, lines 64,-67, col. 8, lines 1-9).

Claims 11, 12, and 15-29 do not teach or define any new limitations above claims 1-10, 13, and 14 and therefore are rejected for similar reasons.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,662,222 to Ishii et al.

U.S. Pat. No. 6,282,175 to Steele et al.

U.S. Pat. No. 6,244,758 to Solymar et al.

U.S. Pat. No. 6,115,743 to Cowan et al.

U.S. Pat. No. 6,718,384 to Linzy.

U.S. Pat. No. 6,041,347 to Harsham et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avi Gold whose telephone number is 703-305-8762.

The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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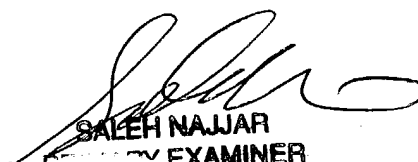
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Avi Gold

Patent Examiner

Art Unit 2157

AMG

  
SALEH NAJJAR  
PRIMARY EXAMINER  
SALEH NAJJAR  
PRIMARY EXAMINER